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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,692	09/19/2003	Dean L. McClymonds	13.27461	4706

25208 7590 04/10/2007  
JOHN W JORDAN IV  
MATIS BAUM RIZZA O'CONNOR  
FOUR GATEWAY CENTER  
444 LIBERTY AVE., SUITE 300  
PITTSBURGH, PA 15222

EXAMINER
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TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,692	<b>Applicant(s)</b> MCCLYMONDS, DEAN L.	
	<b>Examiner</b> Alicia M. Torres	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al. 6,609,356 in view of Lamela et al. 6,663,114 and Chen et al. 4,694,639.
3. Fackrell et al. discloses a mowing device having:

- A frame (14, 16)
- A deck (11) attachable to the frame (14, 16) at different heights
- A cutting blade (178)
- A first pair of wheels (165, 168) attached to the right side of the frame (14)
- A second pair of wheels (165, 167) attached to the left side of the frame (16)
- a two cycle gasoline engine (20).

However, Fackrell et al. fails to disclose:

- A first hydraulic motor mounted on the right side of the frame connected to a first remotely controlled hydraulic pump and to each wheel of the first pair of ground wheels
- A second hydraulic motor mounted to the left side of the frame connected to a second remotely controlled hydraulic pump, operated independently of the first hydraulic pump, and connected to each wheel of the second pair of ground wheels
- a remotely controlled internal combustion engine mounted on the deck

Art Unit: 3671

- a remotely controlled clutch connecting the engine to a blade.

Lamela et al. discloses a vehicle including:

- A first hydraulic motor (not shown) mounted on the right side of the frame connected to a first hydraulic pump (106) and to each wheel of the first pair of ground wheels (102)
- A second hydraulic motor (not shown) mounted to the left side of the frame connected to a second hydraulic pump (108), operated independently of the first hydraulic pump (106), and connected to each wheel of the second pair of ground wheels (102, see column 2, lines 23-28 and column 6, lines 49-52 and column 13, lines 18-24).

Chen et al. discloses a remotely controlled mower and teaches that it is known to use radio controls for controlling the clutch and engine of a lawn mower (see column 6, lines 33-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the left and right sided drives of Lamela et al. on the device of Fackrell et al. in order to allow the vehicle to rotate in place.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control as taught by Chen et al. for the speed and direction control and for the engine and clutch of the mowing device of Fackrell et al. in order to that the operator does not need to follow or push the lawn mower.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fackrell et al., Lamela et al. and Chen et al. as applied to claim 7 above, and further in view of Cartner 4,445,312.

Art Unit: 3671

5. The device is disclosed as applied above. However, the combination fails to disclose a retractable segment on the deck and remotely controlled means for raising and lowering the retractable segment.

Cartner discloses a mower with a retractable segment (80) that can be raised and lowered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the retractable segment of Cartner on the device of Fackrell, Lamela et al. and Keller in order to reach small trees or saplings.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a remote control conversion as taught by Chen et al. for the retractable segment control in order to relieve physical exertion and discomfort.

### ***Response to Arguments***

6. The applicant argues against the use of the Lamela et al. reference in the rejection, specifically, that the vehicle of Lamela et al., and therefore the suspension therewith, is outside the scope of the invention. However, for the modification made with the Lamela et al. reference the scope of the invention involves the drive system of a vehicle. Regardless of the title of Lamela et al.'s patent, the patent discloses the drive system of the invention. As further evidence that the drive system of a skid steer loader is not outside the scope of the invention, the examiner would like to point out the following references showing examples of skid steer vehicles used for mowing:

Eggena US Pat. No. 5,435,117, 7/25/1995

Vought et al. US Pat. No. 5,666,794, 9/16/1997

Kinder et al. US Pat. No. 5,706,638, 1/13/1998.

7. In response to the applicant's arguments regarding Chen et al., the patent teaches the use of remote control for lawn mowers. It is inherent that if the mowing vehicle is controlled by remote control, that the entire vehicle will be controlled by remote control as there is no operator physically touching the mower to control it. At the end of Chen's passage in column 6, lines 33-99, Chen indicates that a mowing function will be performed while the mower is running by remote control.

### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

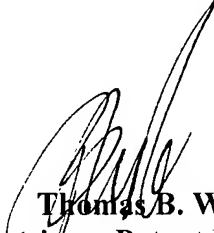
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

Art Unit: 3671

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
March 30, 2007